



Billing Code: 4510-28-P

**DEPARTMENT OF LABOR**

**Office of the Secretary**

**Dominican Republic -Central America-United States Free Trade Agreement  
Notice of Determination Regarding Review of Submission  
#2012-01**

**AGENCY:** Bureau of International Labor Affairs, U.S. Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Office of Trade and Labor Affairs (OTLA) gives notice that on May 14, 2012, Submission #2012-01 regarding Honduras was accepted for review pursuant to Article 16.4.3 of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR).

On March 26, 2012, the AFL-CIO and 27 Honduran civil society and worker organizations provided a formal submission to OTLA alleging violations of the Labor Chapter (Chapter 16) of the CAFTA-DR stemming from the Government of Honduras' (GOH's) actions or failure to act. The submission alleges that the GOH's actions or lack thereof denied workers at factories in the apparel and auto parts manufacturing sectors, plantations in the agricultural sector, and enterprises at the Port of Cortez their rights under Honduran labor law relating to freedom of association, the right to organize, the right to bargain collectively, child labor, and acceptable conditions of work. The submitters also allege the GOH is in violation of the CAFTA-DR due to recently passed

legislation which weakens workers rights and on-going deficiencies in its laws and legal system.

The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the U.S.

Government's views regarding whether the GOH's actions were consistent with its obligations under the Labor Chapter of the CAFTA-DR.

**EFFECTIVE DATE:** May 14, 2012

**FOR FURTHER INFORMATION CONTACT:** Gregory Schoepfle, Director, OTLA, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-5303, Washington, DC 20210. Telephone: (202) 693-4900. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Article 16.4.3 of the Labor Chapter of the CAFTA-DR establishes that each Party's contact point shall provide for the submission, receipt, and consideration of public communications ("submissions") on matters related to provisions of the Labor Chapter and shall review those submissions in accordance with domestic procedures. A *Federal Register* notice issued on December 21, 2006 informed the public that the OTLA had been designated as the office to serve as the contact point for implementing the CAFTA-DR's labor provisions. The same *Federal Register* notice informed the public of the Procedural Guidelines that OTLA would follow for the receipt and review of public submissions (71 Fed. Reg. 76691 (2006)). These Procedural

Guidelines are available at

<http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm>. According to the definitions contained in the Procedural Guidelines (Section B) a “submission” is a communication from the public containing specific allegations, accompanied by relevant supporting information, that another Party has failed to meet its commitments or obligations arising under a labor chapter of a U.S. free trade agreement.

The Procedural Guidelines specify that OTLA shall consider six factors, to the extent that they are relevant, in determining whether to accept a submission for review:

1. Whether the submission raises issues relevant to any matter arising under a labor chapter;
2. Whether a review would further the objectives of a labor chapter;
3. Whether the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;
4. Whether the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labor chapter;
5. Whether the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and

6. Whether the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

U.S. Submission # 2012-01 alleges that the GOH's actions or lack thereof denied workers their rights under the laws of Honduras, citing specific instances allegedly demonstrating: an inability or unwillingness to find and remedy labor violations, failure of labor inspectors to use all means provided for under the Labor Code to gain access to facilities for inspections or to serve notice of union establishment and protections, improper or questionable practices of Ministry of Labor and Social Security (STSS) employees in the enforcement of labor laws, failure of STSS officials to grant union recognition or verify mandated corrections of violations uncovered by an inspection in the legally established timeframe, government mediation that failed to afford workers benefits meeting the standards established in the Labor Code, and lengthy proceedings that effectively served to deny workers their labor rights.

In determining whether to accept the submission, OTLA considered the relevant factors in light of the statements in the submission and its supporting documentation. The submission clearly identifies the submitter, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review. It also raises issues relevant to the Labor Chapter of the CAFTA-DR, citing numerous problems in the apparel and auto parts manufacturing, agriculture, and port sectors that the submitters believe are in violation of Honduras' labor laws. The submission raises

pertinent issues that could further the objectives of the Labor Chapter and that could, if substantiated, constitute a failure of the GOH to comply with its obligations under the Labor Chapter. The submitters provided information on several specific cases of alleged labor violations and included a list of articles of the Labor Code, the Constitution of Honduras, and ILO Conventions that they believe were violated by the allegations in the submission. The submitters provided information on efforts to seek appropriate relief for these alleged violations under domestic laws and to raise the issues with GOH officials. The submission also notes that the issues in the submission have not been remedied to date. OTLA has not received similar submissions related to Honduras. Accordingly, OTLA has accepted the submission for review.

OTLA's decision to accept the submission for review is not intended to indicate any determination as to the validity or accuracy of the allegations contained in the submission. The objective of the review of the submission will be to gather information so that OTLA can better understand the allegations therein and publicly report on the issues raised by the submission. OTLA will complete the review and issue a public report to the Secretary of Labor within 180 days, unless circumstances, as determined by OTLA, require an extension of time, as set out in the Procedural Guidelines. The public report will include a summary of the review process, as well as any findings and recommendations.

Signed at Washington, DC, on May 14, 2012

---

Carol Pier  
Acting Deputy Undersecretary for International Affairs

[FR Doc. 2012-12406 Filed 05/21/2012 at 8:45 am; Publication Date: 05/22/2012]